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Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and Associated Individuals and Entities

Note verbale dated 22 October 2003 from the Permanent Mission of Peru to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of Peru to the United Nations presents its compliments to the Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and Associated Individuals and Entities and has the honour to submit the report of the Government of Peru in accordance with paragraph 6 of resolution 1455 (2003) (see annex).

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Annex to the note verbale dated 22 October 2003 from the Permanent Mission of Peru to the United Nations addressed to the Chairman of the Committee

Report of Peru to the Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and Associated Individuals and Entities

In accordance with the provisions of Security Council resolution 1455 (1999) Peru is submitting the following updated report concerning the actions taken to implement Security Council resolutions 1267 (1999), 1333 (2000) and 1390 (2002) concerning the fight against terrorism. The report has been prepared in accordance with the guidelines established by the Committee.

I. Introduction

1. **Please provide a description of activities, if any, by Osama bin Laden, Al-Qaida, the Taliban and their associates in your country, the threat they pose to the country and the region, as well as likely trends.**

No activities by Osama bin Laden, Al-Qaida, the Taliban and their associates have been detected in Peru thus far. That being so, the threats and risks for Peru are the same as those for any other country.

II. Consolidated List

2. **How has the 1267 Committee's List been incorporated within your legal system and your administrative structure, including financial supervision, police, immigration control, customs and consular authorities?**

Peru has taken the following steps in that connection:

The Ministry of Foreign Affairs has referred the Committee's updated list to the national immigration, consular, financial supervision and police authorities for inclusion in the relevant files and for action as necessary.

This List is also in the files of the intelligence unit of the Counter-terrorism Directorate of the National Police so that it can be used throughout the nation.

The financial supervision activities are set forth in paragraph 10 below.

3. **Have you encountered any problems with implementation with regard to the names and identifying information as currently included in the List? If so, please describe these problems.**

Identifying data must be expanded. The Peruvian police and immigration authorities believe that the photographs and fingerprints of individuals included in the List might be an additional element that would facilitate identification, particularly when altered or fraudulent documents are presented.

4. **Have your authorities identified inside your territory any designated individuals or entities? If so, please outline the actions that have been taken.**

Thus far, no designated individual or entity has been identified within Peruvian territory.

5. **Please submit to the Committee, to the extent possible, the names of individuals or entities associated with Osama bin Laden or members of the Taliban or Al-Qaida that have not been included in the List, unless to do so would compromise investigations or enforcement actions.**

Thus far we have not identified any individual or entity associated with Osama bin Laden or members of the Taliban or Al-Qaida that have not been included in the List.

6. **Have any listed individuals or entities brought a lawsuit or engaged in legal proceedings against your authorities for inclusion in the List? Please specify and elaborate, as appropriate.**

Not applicable.

7. **Have you identified any of the listed individuals as nationals or residents of your country? Do your authorities have any relevant information about them not already included in the List? If so, please provide this information to the Committee as well as similar information on listed entities, as available.**

No listed individual has been identified as a national or resident of Peru.

8. **According to your national legislation, if any, please describe any measures you have taken to prevent entities and individuals from recruiting or supporting Al-Qaida members in carrying out activities inside your country, and to prevent individuals from participating in Al-Qaida training camps established in your territory or in another country.**

Our legislation provides for penalties for various acts of collaboration with terrorism when such acts are committed within Peruvian territory. Indeed, article 4 of the Decree Law No. 25475 reads as follows:

"Article 4. Collaboration with terrorism

"Anyone who willfully secures, gathers, collects or supplies any goods or means or in any manner engages in acts such as to further the commission of offences referred to by this Decree Law or furthers the goals of a terrorist group, shall be punished by a term of imprisonment of no less than 20 years."

"The following constitute acts of collaboration:

"(a) The supplying of documents or information on persons, assets, installations, public or private buildings or anything else that specifically assists or facilitates the activities of terrorist groups or elements.

"(b) The transfer or use of any type of lodging or other means susceptible of serving to conceal persons or store weapons, explosives, propaganda, provisions, medicines or other items connected with terrorist groups or with their victims.

"(c) The intentional transport of persons belonging to terrorist groups or connected with their criminal activities and the rendering of any kind of assistance to help them to flee.

"(d) The organization of courses or the managing of centres for the indoctrination and instruction of terrorist groups, operating under any cover.

"(e) The manufacture, acquisition, possession, theft, storage or supplying of arms, ammunition or explosive, asphyxiating, inflammable, toxic or any other type of substances or objects that might cause death or injury. The possession or concealment of arms, ammunition or explosives belonging to the armed forces or the National Police of Peru constitutes an aggravating circumstance.

"(f) Any form of economic assistance, aid or mediation provided or done voluntarily for the purpose of financing the activities of terrorist groups or elements."

III. Financial and economic assets freeze

Under the sanctions regime, States are to freeze without delay the funds and other financial assets or economic resources of the listed individuals and entities, including funds derived from property owned or controlled, directly or indirectly, by them or by persons acting on their behalf or at their direction, and ensure that neither these nor any other funds, assets or resources are made available, directly or indirectly, for such persons' benefit, by their nationals or by any persons within their territory. For the purpose of implementation of the financial prohibitions in this sanctions regime, "economic resources" is defined to mean assets of every kind, whether tangible or intangible, movable or immovable.

9. **Please describe briefly:**

- **The domestic legal basis to implement the asset freeze required by the resolutions above;**

(i) Act No. 26702, the General Act on the Financial System and the Insurance System and on the Organization of the Superintendence of Banking and Insurance (articles 140, 375 to 381).

(ii) Act No. 27379, which provides for special restrictions on rights during preliminary investigations is applicable inter alia to the offences of terrorism and illicit drug trafficking. Article 2, paragraph 4, refers to the seizure of assets and article 2, paragraph 5, authorizes the lifting of bank secrecy and tax confidentiality.

(iii) Act No. 27693, establishing the Financial Intelligence Unit.

(iv) Supreme Decree No. 163-2002-EF approving the Regulations of the Act establishing the Financial Intelligence Unit.

(v) Act No. 27765 Act on Money Laundering.

In addition, in the context of the judicial proceedings already initiated or about to be initiated, the Code of Criminal Procedure and the Code of Civil Procedure establish

rules providing for restrictions on the right of citizens to property. Both require a court order in order to restrain assets or freeze bank accounts.

- **Any impediments under your domestic law in this context and steps taken to address them.**

10. **Please describe any structures or mechanisms in place within your Government to identify and investigate Osama bin Laden, Al-Qaida or Taliban-related financial networks, or those who provide support to them or individuals, groups, undertakings and entities associated with them within your jurisdiction. Please indicate, as appropriate, how your efforts are coordinated nationally, regionally and/or internationally.**

With respect to structures and mechanisms in Peru to identify and investigate financial networks linked to terrorism, we should mention the Superintendence of Banking and Insurance, hereinafter referred to as SBI, and the Financial Intelligence Unit, known as FIU, which are operational.

The SBI, which is the agency responsible for the regulation and supervision of the financial system, insurance and pensions, is responsible for sending to financial institutions each updated version of the Consolidated List, so that banks and other financial institutions can report whether such persons or organizations have accounts in the national financial system.

The FIU is the institution responsible for analysis, processing and transmission of information to prevent and detect laundering of money and assets. Analysis of information consists in the study and examination by FIU of suspicious communications and transactions provided by bodies required to do so. Processing of information includes organization, processing and classification of that information for the purpose of facilitating analysis. Transmission of information consists in communications which the FIU sends to the Public Prosecutor's Office regarding suspicious transactions that could involve laundering of money or assets.

For the purpose of appropriate coordination in the elaboration of strategies, policies and procedures for the prevention of laundering of money or assets, the FIU has an Advisory Council composed of a representative of SBI, who presides, and representatives of the National Superintendence of the Tax Administration (SUNAT), the National Regulatory Commission for Business and Securities (CONASEV), the Public Prosecutor's Office, the Ministry of Economic Affairs and Finance, the Ministry of External Trade and Tourism, the Central Reserve Bank and the Office of the Controller-General of the Republic.

The FIU also receives support from liaison officers appointed by the heads of the Superintendence of Banking and Insurance, the Public Prosecutor's Office, the National Superintendence of the Tax Administration, Customs, the National Regulatory Commission for Business and Securities and the Ministry of the Interior, whose duty it is to consult and to coordinate the activities of FIU with the relevant bodies.

As for coordination at the regional and/or international level, the act establishing the FIU authorizes it to collaborate or exchange information with the competent authorities of other countries which have analogous functions, under international conventions and agreements in the area of laundering of money or assets.

The collaboration and exchange of information with the competent authorities of other countries will be governed by the provisions of international treaties and agreements and, when applicable, the general principle of reciprocity and acceptance by the authorities of these countries of the same obligations concerning professional confidentiality as those which apply to nationals. Thus, the FIU can enter into cooperation agreements with foreign entities of a similar nature and/or with public or private institutions, both national and foreign, as necessary for the performance of its duties.

At the police level, it should be noted that in 2003, the Counter-Terrorism Directorate of the National Police established an office for counter-terrorist financial investigation that will work with FIU in cases that call for more thorough investigations and use of the FIU's legal powers (the National Police does not have such powers). As for its own work, the operational mechanisms are being established.

11. **Please convey the steps banks and/or other financial institutions are required to take to locate and identify assets attributable to, or for the benefit of, Osama bin Laden or members of Al-Qaida or the Taliban, or associated entities or individuals. Please describe any "due diligence" or "know your customer" requirements. Please indicate how these requirements are enforced, including the names and activities of agencies responsible for oversight.**

With regard to the steps that banks and other institutions are required to take to locate and identify assets attributable to Osama bin Laden, members of Al-Qaida or the Taliban, or associated entities or individuals, the procedure is that, on receipt of the communication from the SBI mentioned in the preceding paragraph, the financial institutions conduct the necessary investigations in order to determine whether any of the listed individuals or organizations have an account with them. The results of such investigations are reported to the SBI.

To date, there have been no reported cases of accounts in the name of listed individuals or organizations having been found.

Moreover, in Peru, all financial institutions are required to ensure that only named accounts are held, and also to identify their customers in as detailed a way as possible and to keep information concerning their customers and their principal transactions for a minimum period of 10 years.

Financial institutions also have a legal obligation to record cash transactions exceeding a given amount (currently US$ 10,000 per transaction, or US$ 50,000 for all operations in the course of a month) and to report any suspicious financial transactions to the FIU.

Institutions that are required to provide information must also:

- Implement prevention mechanisms for the detection of unusual or suspicious transactions, whereby adequate and up-to-date information concerning their customers, the correspondent bank and its staff may be obtained.
- Procedures under the prevention programme must be set down in a handbook on the prevention of money-laundering.
- The prevention mechanisms must be based on an adequate understanding of the financial markets, the stock exchange and commercial markets, with a view

to identifying the normal characteristics of transactions conducted in respect of given products and services, so that they may be compared with transactions conducted in accordance with the mechanism.

They must also keep checks on or records of their customers' transactions, either manually or with computers.

Lastly, financial institutions are required to conduct regular training programmes — such as the "know your customer" programme — for their staff and to instruct them in the above-mentioned requirements. Monitoring of compliance with these rules is the task, within these institutions themselves, of management-level officials known as Compliance Officers, who act as liaison with the competent authorities.

With regard to "due diligence" or "know your customer", the situation is that, under article 14 of Supreme Decree 163-2002-EF, "know your customer" means that the entities required to report must insist on the presentation of public or private documents that establish the identity of their regular or occasional customers at the time that the trading relationship commences and, in particular, when the customer seeks to conduct a transaction involving a sum equal to or greater than the amount for which recording of transactions is required. They must therefore require their customers, when these are individuals, to present documents for identification, such as the national identity document, birth certificate, passport, immigration certificate, driving licence or any other official document with a photograph, that provides information concerning the customer's full name, date of birth, nationality, trade or profession, domicile and distinguishing marks. The credentials of persons acting on their behalf, and the identification of such persons, must also be required. In the case of corporations, they must request company contracts, articles of association or any other official or private document that reliably establishes at least the registered name or title, status, purpose and domicile of the corporation.

The reporting entities must take reasonable steps to obtain, record and update information on the true identity of their customers, whether regular or not, and on any commercial transactions conducted.

With regard to agencies responsible for oversight, the situation is that, under article 25 of the above-mentioned decree, agencies overseeing the reporting entities must monitor and oversee compliance with the rules on prevention of money- or asset-laundering. In the performance of their duties concerning monitoring and oversight of the money-laundering prevention system, the oversight bodies are supported by the Compliance Officer, the internal auditors and the external audit companies of entities that are corporations.

The Compliance Officer is the official responsible for overseeing compliance with the money-laundering prevention system by the reporting entities that are corporations, with the relevant legislation and with policies and procedures established by the entities themselves. Every six months the Compliance Officer must issue a report on the functioning of, and level of compliance with, the money-laundering prevention system within the reporting entities; the report is made available to the Board of Directors or an equivalent body.

The internal auditors and the external audit companies of the reporting entities that are corporations must carry out an assessment of the money-laundering prevention system in order to verify compliance with the relevant rules in this area.

12. **Resolution 1455 (2003) calls on Member States to provide "a comprehensive summary of frozen assets of listed individuals and entities". Please provide a list of the assets that have been frozen in accordance with this resolution. This list should also include assets frozen pursuant to resolutions 1267 (1999), 1333 (2001) and 1390 (2002). Please include, to the extent possible, in each listing the following information:**

- **Identification of the person or entities whose assets have been frozen;**
- **A description of the nature of the assets frozen (i.e., bank deposits, securities, business assets, precious commodities, works of art, real estate property, and other assets);**
- **The value of assets frozen.**

To date, no account in the name of the listed individuals or organizations have been identified. There have therefore been no grounds for freezing any assets.

13. **Please indicate whether you have released pursuant to resolution 1452 (2002) any funds, financial assets or economic assets that had previously been frozen as being related to Osama bin Laden or members of the Al-Qaida or the Taliban or associated individuals or entities. If so, please provide reasons, amounts unfrozen or released and dates.**

Not applicable. See reply to paragraph 12.

14. **Pursuant to resolutions 1455 (2003), 1390 (2001), 1333 (2000) and 1267 (1999), States are to ensure that no funds, financial assets or economic resources are made available, directly or indirectly, to listed individuals or entities or for their benefit, by nationals or by any persons within their territory. Please indicate the domestic legal basis, including a brief description of laws, regulations and/or procedures in place in your country to control the movements of such funds or assets to designated individuals and entities. This section should include a description of:**

- **The methodology, if any, used to inform banks and other financial institutions of the restrictions placed upon individuals or entities listed by the Committee, or who have otherwise been identified as members or associates of Al-Qaida or the Taliban; this section should include an indication of the types of institutions informed and the methods used;**
- **Required bank-reporting procedures, if any, including the use of suspicious transaction reports (STRs), and how such reports are reviewed and evaluated;**
- **Requirements, if any, placed on financial institutions other than banks to provide STRs, and how such reports are reviewed and evaluated;**
- **Restrictions or regulations, if any, placed on the movement of precious commodities such as gold, diamonds and other related items;**
- **Restrictions or regulations, if any, applicable to alternate remittance systems such as — or similar to — "hawala", as well as on charities, cultural and other non-profit organizations engaged in the collection and disbursement of funds for social or charitable purposes.**

As was mentioned under point 10, the Superintendency of Banking and Insurance sends financial institutions every update of the consolidated list, so that they may report whether any listed individuals or organizations maintain accounts in the national financial system.

In addition, the Financial Intelligence Unit reviews and examines the suspicious transaction reports and transaction records sent in by the reporting entities and compiles, processes and classifies such information, so that it can inform the Public Prosecutor's Office, as appropriate, of any transactions that appear to involve money- or asset-laundering.

In accordance with Act No. 27693, article 8, paragraphs 1 to 14, the persons or entities required to report ("reporting persons and entities") are:

1. Financial and insurance institutions and other firms covered by articles 16 and 17 of the General Act on the Financial System and the Insurance System and on the Organization of the Superintendency of Banking and Insurance (Act No. 26702);

2. Firms that issue credit and/or debit cards;

3. Savings-and-loan cooperatives;

4. Trustees or administrators of assets, companies or syndicates;

5. Stock or other securities brokerage firms;

6. Firms administering mutual funds, investment funds, collective funds and pension funds;

7. The Stock Exchange and other centralized trading mechanisms and institutions for securities clearance and settlement;

8. The Commodities Exchange;

9. Firms or individuals dealing in automobiles, ships or aircraft;

10. Firms or individuals engaged in construction and real estate;

11. Casinos, lottery firms and gambling houses, including bingo parlours, horse-racing tracks and agencies of the foregoing;

12. Bonded warehouses;

13. Customs agencies;

14. Firms whose computer programmes and systems make it possible to carry out suspicious transactions.

Also covered are firms that deal in jewellery, precious metals, precious stones, coins, objets d' art and stamps.

As specified in article 9, paragraph 1, of Act No. 27693 and annex No. 1 of the Regulations approved by Supreme Decree No. 163-2002-EF transactions subject to control are those carried out by regular or occasional clients in amounts of US$ 10,000.00 (ten thousand United States dollars) or more — or the equivalent in national currency — except in the case of funds transfer firms, casinos, lottery firms and gambling houses, including bingo parlours, horse-racing tracks and agencies of

the foregoing, which must report transactions of US$ 2,500.00 (two thousand five hundred United States dollars) or more or the equivalent in national currency.

As specified in Act No. 27693, article 9, paragraph 1, the following transactions are subject to control:

(a) Cash deposits into a current account, savings account, certificate of deposit or other fixed-term account;

(b) Securities deposits, figured at their quoted market value at the close of the day prior to deposit;

(c) Purchase of negotiable bonds or other debt instruments from the issuing entity;

(d) Purchase or sale of public or private securities or shares in mutual funds;

(e) Purchase or sale of precious metals (gold, silver, platinum);

(f) Purchase or sale in cash of foreign currency;

(g) Remittances or transfers originated or received (domestic or foreign), regardless of the method employed to effect the transaction and regardless of the intended use (deposit, swap, purchase or sale of securities, etc.);

(h) Purchase or sale of cheques drawn on foreign accounts and of traveller's cheques;

(i) Payment for imports;

(j) Collection for exports;

(k) Sale of the portfolio of a financial entity to third parties;

(l) Loan servicing;

(m) Loan prepayments;

(n) Establishment of trusts or any other type of fiduciary arrangements;

(o) Purchase or sale of goods and services;

(p) Futures contracts;

(q) Other operations or transactions considered important that the Regulations may specify.

Transactions carried out at one or more offices or agencies of a reporting entity during one calendar month by or on behalf of the same person that together amount to US$ 50,000.00 (fifty thousand United States dollars) or more — or the equivalent in national currency — or, in the case of funds transfer firms, casinos, lottery firms and gambling houses, including bingo parlours, horse-racing tracks and agencies of the foregoing, to US$ 10,000.00 (ten thousand United States dollars) or more — or the equivalent in national currency — shall be reported as a single transaction.

In addition, in accordance with article 20 of the Regulations approved by Supreme Decree No. 163-2002-EF, in conformity with article 11 of Act No. 27693, reporting persons and entities must inform the Financial Intelligence Unit of any suspicious transactions they uncover in the course of their operations, regardless of

the amounts involved, within thirty (30) calendar days at most from the date the transactions are detected.

Any unusual transaction that, based on the information the reporting person or entity has about the client, leads it to believe, that the funds involved in the transaction are derived from some illicit activity because they have no apparent economic or legal justification shall be deemed to be suspicious for these purposes.

To identify unusual transactions, the reporting persons and entities must pay special attention to all transactions, completed or in process, the particular characteristics of which bear no relation to the economic activity of the client or are outside the normal limits for the market or have no obvious legal justification.

In that regard, the information that reporting persons and entities must obtain from their clients when they identify themselves should enable them to create a profile of the activity of each client and thus make it possible to detect unusual transactions.

Article 8 of Act No. 27693 states that financial and insurance institutions are among the entities required to report to the Financial Intelligence Unit. Banks are financial institutions. It follows that under article 11 of Act No. 27693 banking institutions, which are required to report and inform, must pay special attention to suspicious and unusual transactions that their clients have carried out or are attempting to carry out.

Under article 20 of the Regulations approved by Supreme Decree No. 163-2002-EF, reporting persons and entities must inform the Financial Intelligence Unit of any suspicious transactions they uncover in the course of their operations, regardless of the amounts involved, within 30 calendar days at most from the date the transactions are detected.

Article 3 of the Regulations provides that the Financial Intelligence Unit is responsible for receiving, centralizing, organizing and analysing the information on suspicious transactions provided by the reporting persons and entities.

Article 9 of the Regulations approved by Supreme Decree No. 163-2002-EF provides that the Prevention and Analysis Section of the Financial Intelligence Unit has the task of analysing the information sent in by reporting persons and entities in order to uncover cases of money- or asset-laundering. Under article 11 of the Regulations the Legal Section is responsible for identifying possible crimes associated with the suspicious transactions that have been analysed.

Since article 8 of Act No. 27693 refers to financial institutions other than banks as being required to provide information to the Financial Intelligence Unit, it follows that the obligation to report suspicious transactions extends to them as well.

Their reports on suspicious transactions are reviewed and evaluated in a similar manner to those of banking institutions.

With regard to the restrictions or regulations, if any, placed on the movement of precious commodities such as gold, diamonds and other related items, it should be noted that in Act No. 27693, article 8, paragraphs 17 and 18, the obligation to report suspicious transactions to the Financial Intelligence Unit is extended to natural or legal persons who deal in antiques, jewellery, precious metals, precious stones, coins, objets d' art and stamps.

In Peru there are no regulations or restrictions applicable to alternate remittance systems such as, or similar to, "hawala", or to charities, cultural organizations or other non-profit organizations engaged in the collection and disbursement of funds for social or charitable purposes. However, Act No. 27693, article 8, paragraph 16, provides that legal persons engaged in mail delivery and courier services are required to report suspicious transactions to the Financial Intelligence Unit. Such funds transfer firms must also have a licence.

Charities, cultural organizations or other non-profit organizations engaged in the collection and disbursement of funds for social or charitable purposes do not come under the supervision of the Superintendency of Banking and Insurance. However, the transactions that such organizations carry out through the financial system are governed by the general rules noted above.

It should be added, however, that Act No. 27693, article 8, paragraph 22, provides that legal persons who receive donations or contributions from third parties are required to report suspicious transactions to the Financial Intelligence Unit.

IV. Travel ban

Under the sanctions regime, all States shall take measures to prevent the entry into or transit through their territories of Listed individuals.

15. **Please provide an outline of the legislative and/or administrative measures, if any, taken to implement the travel ban.**

Under our legislation, the judicial authority is the only authority in Peru competent to order a ban on travel out of the country. Its orders are transmitted to the judicial police for dissemination at the national level and implementation, in conformity with Act No. 27238, entitled "Organic Law on the National Police".

16. **Have you included the names of the Listed individuals in your national "stop list" or border checkpoint list? Please briefly outline steps taken and any problems encountered.**

Yes, please see reply to question 2.

However, problems have been encountered in ensuring the prompt updating of the lists, owing to the lack of adequate technological resources.

Interpol-Lima is currently working on a decentralization project to facilitate smooth coordination with both police and judicial authorities in border areas.

17. **How often do you transmit the updated List to your border control authorities? Do you possess the capability of searching List data using electronic means at all your entry points?**

Each update transmitted by the Committee is immediately forwarded to the competent national authorities. Dissemination at the national level, however, is hampered by technological deficiencies.

18. **Have you stopped any of the Listed individuals at any of your border points or while transiting your territory? If so, please provide additional information, as appropriate.**

Thus far, no one on the list has been identified as attempting to enter the territory of Peru.

19. **Please provide an outline of the measures, if any, taken to incorporate the List in the reference database of your consular offices. Have your visa-issuing authorities identified any visa applicant whose name appears on the List?**

The Ministry of Foreign Affairs has instructed its consular offices abroad to comply with the provisions of resolution 1267 (1999) by denying visas to individuals on the List of the Security Council Committee established pursuant to resolution 1267 (1999), which must be consulted in considering each application for a visa. There was one doubtful case about which the List provided insufficient information and, since the information could not be obtained in a timely manner through the appropriate channels, the visa was not granted.

V. Arms embargo

Under the sanctions regime, all States are requested to prevent the direct or indirect supply, sale and transfer, to Osama bin Laden, members of Al-Qaida organization and the Taliban and other individuals and entities associated with them, from their territories or by their nationals outside their territories of arms and related materiel of all types, including the provision of spare parts and technical advice, assistance, or training related to military activities.

20. **What measures, if any, do you now have in place to prevent the acquisition of conventional arms and weapons of mass destruction (WMD) by Osama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them? What kind of export control do you have in place to prevent the above targets from obtaining the items and technology necessary for weapons development and production?**

Peruvian law prohibits the unlawful possession or ownership, manufacture, storage and supply of weapons (either for civil use or for use in war) and ammunition, bombs, materiel, explosives, etc., which are punishable under article 279 of the Penal Code.[1]

Article 279-B of the Penal Code of Peru[2] also criminalizes and punishes by a term of imprisonment of no fewer than 10 and no more than 20 years any act by an individual who acquires firearms in general, or ammunition, grenades of war or explosives by diverting or pilfering them from members of the armed forces, national police or security services.

With regard to weapons of mass destruction, in addition to those listed in article 279 of the Penal Code (relating to bombs and explosives), article 279-A[3] has also criminalized the production, trade, storage, acquisition, sale, use or possession

[1] Legislation in force, as amended by the First Supplementary Provision to Legislative Decree No. 898 of 27 May 1998.

[2] Article incorporated pursuant to the Second Supplementary Provision to Legislative Decree No. 898 of 27 May 1998.

[3] Article incorporated pursuant to article 5 of Act No. 26672 of 20 October 1996.

of chemical weapons, as well as the transfer to a third party, or the act of encouraging, assisting or facilitating a third party in carrying out the above-mentioned acts, in violation of the provisions of the Chemical Weapons Convention adopted by the United Nations in 1992.

With regard to weapons for civilian use, in addition to the legislation already mentioned, Decree Law No. 25054 of 19 June 1989 regulates the manufacture, trade, possession and use by private individuals of weapons and ammunition not intended for war, as well as the authorization, oversight, infractions, punishment and end-use of such weapons and ammunition. The Directorate for Control of Security Services and Civilian Use of Weapons, Munitions and Explosives (DICSAMEC), of the Ministry of the Interior, is the controlling authority for the above-mentioned purposes.

Under the criminal laws of Peru, terrorism is considered a crime and the law has established the necessary controls to prevent the use, possession or storage of arms and explosives for purposes of terrorism. The following legal provisions may be cited:

(a) Article 2 of Decree Law No. 25475 of 5 May 1992 (Basic Terror): the provoking or creating of terror through acts of violence against protected juridical rights, using for that purpose, inter alia, weapons, materiel or explosive devices, shall constitute the crime of terrorism.

(b) Article 4 of Decree Law No. 25475, of 5 May 1992 (Acts of Collaboration for Purposes of Terrorism): the transfer or utilization of means capable of being used for the storage of weapons or explosives is prohibited (paragraph (b)); the manufacture, acquisition, possession, diversion, storage or supply of weapons, ammunition, or explosive, asphyxiating, inflammable, or toxic substances or objects, or any other kind of substance or object that can cause death or personal injury, are also prohibited. The ownership, possession or concealment of arms, ammunition or explosives that are the property of the armed forces or national police shall be considered an aggravating factor and punished accordingly (paragraph (e)).

(c) Decree Law No. 25707 of 31 August 1992: As part of the strategy to combat subversion, this law regulates the utilization of explosives for civilian and related purposes, with a view to expanding the measures for control of the manufacture, trade, transport, storage, use and destruction of explosive devices for civil use and of inputs that may be used in their manufacture, and establishes multisectoral control mechanisms, procedures, documentation requirements and prohibitions. It also provides that failure to observe the provisions of this Decree Law shall constitute the crime of terrorism.[4]

With regard to ammonium nitrate, there is Legislative Decree No. 846, of 20 September 1996 (published on 21 September 1996), which regulates ammonium nitrate in any of its forms and under any of its names (agricultural, technical and ANFO grade) and its constituent elements. This decree regulates the manufacture, trade, distribution, storage, transport, use and destruction of the above-mentioned explosive substance, as well as its importation, which means that it is therefore

[4] In accordance with article 16 of the above-mentioned legal norm and article 28 of its implementing regulations enacted by Supreme Decree No. 086-92-PCM, of 28 October 1992.

subject to the provisions of Legislative Decree No. 25707, of 31 August 1992, and its implementing regulations.

21. **What measures, if any, have you adopted to criminalize the violation of the arms embargo directed at Osama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them?**

Since this constitutes an act of collaboration with terrorism, it is subject to the provisions of article 4 of Decree Law No. 25475.

22. **Please describe how your arms/arms broker licensing system, if any, can prevent Osama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them from obtaining items under the established arms embargo.**

A legal procedure exists for controlling both the granting of licenses, which are granted only for certain uses,[5] and the import and export of arms, ammunition, accessories and spares. Under this procedure, the oversight bodies (DISCAMEC and, where appropriate, the Armed Forces Joint Command[6]) monitor violations of the provisions of the above-mentioned legal norm, which are punishable by confiscation of the arms and the filing of a criminal complaint with the Office of the Public Prosecutor for the appropriate criminal charges to be brought.[7]

23. **Do you have any safeguards that the weapons and ammunition produced within your country will not be diverted/used by Osama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated?**

Please see reply to question 22.

VI. Assistance and conclusion

24. **Would your State be willing or able to provide assistance to other States to help them implement the measures contained in the above-mentioned resolutions? If so, please provide additional details or proposals.**

Peru is willing to provide assistance to other States in the area of exchange of intelligence.

25. **Please identify areas, if any, of any incomplete implementation of the Taliban/Al-Qaida sanctions regime, and where you believe specific assistance or capacity-building would improve your ability to implement the above sanctions regime.**

The first part of the question does not apply, since the presence of elements of these terrorist organizations has not been encountered in Peru.

[5] Articles 13, 14, 15 and 16 of Act No. 25054.
[6] Articles 20 and 21 of Act No. 25054.
[7] Article 28 of Act. No. 25054.

With regard to the second part of the question, it would be useful to develop programmes of assistance for the equipping and training of officials both in terms of the rules and at the operational level in this field that would, inter alia, promote a greater understanding of these organizations.

Technical assistance is also needed in the form of computer equipment and systems for border checkpoints.